



THE CORPORATION OF THE TOWN OF AMHERSTBURG

OFFICE OF DEVELOPMENT SERVICES

MISSION STATEMENT: *Committed to delivering cost-effective and efficient services for the residents of the Town of Amherstburg with a view to improve and enhance their quality of life.*

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Author's Phone: 519 736-5408 ext. 2124	Date to Council: August 8, 2022
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To: Mayor and Members of Town Council

Subject: Official Plan Amendment No. 16: 131-135 Sandwich Street South

1. **RECOMMENDATION:**

It is recommended that:

1. Official Plan Amendment No. 16, attached to this report as Appendix "A", **BE ADOPTED** by Council and forwarded to the County of Essex.

EXECUTIVE SUMMARY:

N/A

2. **BACKGROUND:**

The Town received an Official Plan Amendment and Zoning By-law Amendment from Daei Foods Inc., for approximately 0.2 hectares or land (municipally known as 131 and 135 Sandwich Street South) located on the east side of Sandwich Street South between Fort Street and Richmond Street. If approved, the Official Plan will be amended on a site-specific basis using a Special Policy Area to permit a drive through restaurant on the subject lands with an additional commercial unit having a total gross floor area of approximately 390 m². The Zoning By-law amendment, if approved, will establish site-specific lot and building regulations, in accordance with a final site plan to be approved by the Town.

A Statutory Public Meeting under the Planning Act was held on June 13, 2022 at which comments were received from members of the community and Council. Following the June 13, 2022 meeting, Administration worked with the applicant and their agents (MHBC Planning) to address the comments and bring forward this report for Council's consideration.

3. **DISCUSSION:**

Provincial Policy Statement

The Provincial Policy Statement was issued under Section 3 of the Planning Act and came into effect on May 1, 2020. The Provincial Policy Statement provides policy direction on matters of provincial interest related to land use planning and development. As a key part of Ontario's policy-led planning system, the Provincial Policy Statement sets the policy foundation for regulating the development and use of land. It also supports the provincial goal to enhance the quality of life for all Ontarians.

The Provincial Policy Statement provides for appropriate development while protecting resources of provincial interest, public health and safety, and the quality of the natural and built environment. The Provincial Policy Statement supports improved land use planning and management, which contributes to a more effective and efficient land use planning system.

When reviewing a planning application to determine if the requested Official Plan Amendment (OPA) and Zoning By-law Amendment (ZBA) makes sound planning, it is imperative that the proposed development is consistent with the Provincial Policy Statement (PPS).

The PPS provides policy direction for appropriate development while protecting resources of provincial interest, public health and safety, and the quality of the natural environment. The PPS recognizes that the wise management of development may involve directing, promoting, or sustaining growth. Land use must be carefully managed to accommodate appropriate development to meet the full range of current and future needs, while achieving efficient development patterns.

The following policy excerpts from the PPS are particularly applicable to the subject applications:

1.1 **Managing and Directing Land Use to Achieve Efficient and Resilient Development and Land Use Patterns**

1.1.1 Healthy, liveable, and safe communities are sustained by:

- a) Promoting efficient development and land use patterns which sustain the financial well-being of the province and municipalities over the long term.
- b) Accommodating an appropriate affordable and market-based range and mix of residential types (including single-detached, additional residential units, multi-unit housing, affordable housing, and housing for older persons), employment (including industrial and commercial), institutional (including places of worship, cemeteries, and long-term care homes), recreation, park and open space, and other uses to meet long-term needs.
- c) Avoiding development and land use patterns which may cause environmental or public health and safety concerns.
- d) Avoiding development and land use patterns that would prevent the efficient expansion of *settlement areas* in those area which are adjacent or close to *settlement areas*.

- e) Promoting the integration of land use planning, growth management, *transit-supportive* development, *intensification*, and *infrastructure* planning to achieve cost-effective development patterns, optimization of transit investments, and standards to minimize land consumption and servicing costs.
- f) Improving accessibility for persons with disabilities and older persons by addressing land use barriers which restrict their full participation in society.
- g) Ensuring that necessary *infrastructure* and *public service facilities* are or will be available to meet current and project needs.
- h) Promoting development and land use patterns that conserve biodiversity; and
- i) Preparing for the regional and local impacts of a changing climate.

1.1.2 Sufficient land shall be made available to accommodate an appropriate range and mix of land uses to meet projected needs for a time horizon of up to 25 years, informed by provincial guidelines. However, where an alternate time period has been established for specific areas of the province as a result of a provincial planning exercise or a *provincial plan*, that time frame may be used for municipalities within the area. Within *settlement areas*, sufficient land shall be made available through *intensification* and *redevelopment* and, if necessary, *designated growth areas*. Nothing in policy 1.1.2 limits the planning for *infrastructure*, *public service facilities* and *employment areas* beyond a 25-year time horizon.

County of Essex Official Plan

County of Essex Official Plan

The County of Essex Official Plan was adopted on February 19, 2014 and was approved by the province on April 28, 2015. All lower tier Official Plans or amendments must comply with the policies of the upper tier Official Plan (County). The applicable County policies that should be considered when assessing the merits of the subject Official Plan Amendment include:

Section 1.5 Goals for a Healthy County outline the following:

- To direct the majority of growth (including *intensification* and *affordable housing*), and investment (*infrastructure* and community services and facilities) to the County's *Primary Settlement Areas*. These *Primary Settlement Areas* will serve as focal points for civic, commercial, entertainment and cultural activities.
- To encourage reduced greenhouse gas emissions and energy consumption in the County by promoting built forms and *transportation systems* that create more *sustainable*, efficient, healthy, and liveable communities.
- To create more mixed use, compact, pedestrian-oriented *development* within designated and fully serviced urban *settlement areas*.
- To provide a broad range of housing choices, employment and leisure opportunities for a growing and aging population.

- To prohibit urban forms of *development* outside of designated “*Settlement Areas*” and discouraging urban *development* in areas with partial municipal services.

Section 2.2 Growth Management note the following:

The health of the County requires that long-range land use planning and *infrastructure* investment is properly managed in a way that will:

- Direct non-resource related growth and *development* to settlements where it can be serviced, with a particular emphasis on *Primary Settlement Areas*.
- It is the fundamental policy of this Plan to promote healthy and diverse communities where County residents can live, work and enjoy recreational opportunities. In this regard, every attempt should be made to optimize and make efficient use of existing *infrastructure*.

Section 2.8.1 Roads set out the following policies:

This Plan acknowledges the strong relationship between roads, their function, land use and *development*. Schedule “D1” of this Plan identifies Provincial Highways and County Roads.

Provincial Highways are under the jurisdiction of the Ministry of Transportation and are subject to permit control and approval under the Public Transportation and Highway Improvement Act. In addition to all municipal requirements under the Planning Act, Ministry of Transportation permits are required for access to Provincial Highways where permitted and for the construction of buildings, structures and signs in proximity to the Provincial Highways. All applicants proposing new *development* or changes to existing development on lands adjacent to a Provincial Highway are advised to consult with the Ministry of Transportation prior to making formal applications under the Planning Act.

In December 2004, the draft Essex-Windsor Regional Transportation Master Plan was completed. The Plan was prepared using the Master Planning Process from the “Municipal Class Environmental Assessment Process” and was intended to provide a comprehensive regional transportation master plan with policies and implementation strategies that would serve the needs of the region for 20 years. The Plan identified roadway capacity enhancements, evaluated the levels of service, and recommended a new roadway classification system. Unfortunately, the Plan was prepared based on population projections that have not been achieved. As a result, the recommendations contained in the Plan require review and the County intends on updating the Transportation Master Plan, and implementing it by way of a future amendment to this Plan.

When considering matters of land use planning, the County shall:

- Identify measures to reduce transportation needs such as managing the appropriate type and scale of growth, the use of alternative transportation choices, and the development of an *active transportation* system.

- Strive to minimize conflict between local and non-local traffic by protecting the County Road system depicted on Schedule “D1”. The County shall discourage new *development* that would adversely impact traffic movement along the County Road system unless road improvements can be undertaken to eliminate the adverse impact. New *development* proposing access onto County Roads outside of “Settlement Areas” shall be managed according to the County’s access policies.
- Encourage safe, convenient and visually appealing pedestrian facilities, where appropriate, along the Provincial and County Road systems.
- Ensure that *development* proposals that are likely to generate *significant* traffic are accompanied by a traffic impact study addressing the potential impact on the Provincial and County Road systems and the surrounding land uses and how to minimize any identified negative impact.

Section 2.12 Noise, Vibration and Safety set out the following policies:

Prior to permitting *development* that may be affected by noise, vibration and/or safety, a study may be required to assess the impact of the noise, vibration and safety on proposed residential or other *sensitive land uses*. Noise, vibration and/or safety attenuation measures will be implemented to reduce the impact to levels recommended by the Ministry of the Environment. Local Official Plans are also encouraged to include specific policies to address requirements where *development* of a *sensitive land use* is proposed in proximity to rail lines and other sources of noise, vibration and/or safety, and those policies shall include:

- Prior to the approval of any applications for Official Plan amendments, Zoning By-law amendments, plans of subdivision or condominium, land division, committee of adjustment approval or any *development* that is subject to site plan control on lands that are within 100 metres of a railway line right-of-way, Provincial Highway, or stationary sources of noise, a noise feasibility study shall be completed and submitted to the appropriate agencies and appropriate railway companies for review and comment. Appropriate measures to mitigate any adverse impacts from noise and or vibration that were identified shall be undertaken.

Section 3.2.2 Goals set out the following policies:

- Support and promote public and private re-investment in the *Primary Settlement Areas*.
- To support and promote healthy, diverse and vibrant *settlement areas* within each of the seven Essex County municipalities where all county residents, including special interest and needs groups can live, work and enjoy recreational opportunities.
- To promote *development* within *Primary Settlement Areas* that is compact, mixed-use, pedestrian oriented, with a broad range of housing types, services and

amenities available for residents from all cultural, social and economic backgrounds.

- To promote the creation of public places within all neighbourhoods that foster a sense of community pride and well-being and create a sense of place.

Section 3.2.6 General Settlement Area Policies include the following:

- Local Official Plans are encouraged to establish land requirement needs based on the provision of sufficient land for industrial, commercial, residential, recreational, open space and institutional uses to promote employment opportunities and for an appropriate range and mix of housing to accommodate growth projected for a time horizon of up to 20 years. Residential growth projections *local municipalities* are to be in accordance with the population projections contained in this Plan.
- Local Official Plans are encouraged to provide opportunities for *redevelopment, intensification* and revitalization in areas that have sufficient existing or planned *infrastructure*.
- It is the policy of this County Official Plan to ensure long term economic prosperity by encouraging local Official Plans to:
 - Maintain the well-being of downtowns and mainstreets.

Town of Amherstburg Official Plan

The Official Plan currently designates the subject lands General Commercial (refer to Figure 2). Section 4.4.2 of the Plan set out the following policies:

GENERAL COMMERCIAL LAND USE DESIGNATION

The uses permitted in the General Commercial shall include those commercial establishments offering goods and services which primarily serve the whole of the municipality's market area and shall include such uses as retail commercial establishments, places of entertainment, assembly halls, eating establishments, hotels, motels, community facilities, public uses, recreational uses, convenience stores whether in the form of individual stores or in a shopping centre form of construction and/or ownership, and residential uses above the first floor.

Recreational uses, automobile service stations and automobile sales and service agencies, car washes, agencies for recreational vehicles, motels, drive-through restaurants or other drive through establishments shall be restricted to locations on Sandwich Street north of Alma Street or South of Pike Street or on Simcoe Street.

Adequate buffer planting shall be provided between the commercial use and any adjacent residential areas and such buffer planning may include provisions for grass strips, berms, screening and appropriate planting of trees shrubs, or distance, and all development will be subject to Site Plan Control and any lighting or signs shall be designed and arranged so as to be as least distracting as possible to adjoining residential uses. Every effort will be made to reduce the number of driveway entrances along Arterial Roads by ensuring that, wherever possible, mutual driveway entrances serving two or more lots or developments are provided or planned for through Site Plan Control.

Adequate parking facilities shall be provided for all permitted uses and access to such parking shall be designed in a manner that will minimize the danger to both vehicular and pedestrian traffic. Section 40 of the Planning Act R.S.O. 1990 c. P. 13, provides the Town of Amherstburg with the right to allow property owners to make payment in lieu of parking spaces required by the Zoning By-law. Section 40 allows the Town to collect money which can then be used to provide municipal parking within the area. Under such a policy the Town may exempt part or all of the parking space requirement of the Zoning By-law in return for a cash payment. The amount of the payment will change over time as it is to be based on land costs in the vicinity of the development site. This policy of payment in lieu does not guarantee that parking will be provided near the given development to be exempt from their parking requirements. Only if the Town can satisfy itself that parking on site is not necessary and that the Town can supply sufficient parking within a reasonable distance from the site will exemptions be applied. See Subsection 6.2.5 for additional policies regarding downtown revitalization for a portion of the General Commercial designation.

When applying the payment in lieu option the Town Council shall enter into an agreement exempting the owner or occupant, to whatever extent deemed appropriate, from the requirement of the Zoning By-law to provide parking. Money received should be placed into a special account and the agreement registered against the land. Payment in lieu will only be considered within the General Commercial land use category. New residential developments should attempt to include all required tenant parking on site, however, the residential standards of the Zoning By-law may be significantly reduced within the zones applied to the General Commercial area to encourage intensification and redevelopment that is deemed to have a positive impact on the downtown area. Some minor adjustments may be considered for conversion to residential of upper floors of existing commercial buildings. Caution will be used in considering payment in lieu for high traffic generators such as medical buildings, clinics, restaurants, convenience stores, banks and taverns.

Evaluation of a site as suitable for payment in lieu must carefully assess the effect the number of spaces required will have on the feasibility of the development, the availability of parking in the area, the opportunity or viability of ever providing parking in the area and the resulting cumulative effect of applying the payment in lieu policy and whether or not the opportunity to achieve a desirable development can occur without creating a significant parking deficiency. A parking fund shall be established from cash-in-lieu of parking spaces received from Commercial development in the General Commercial Area.

Within the General Commercial designation abutting Sandwich Street, limited front yard parking may be permitted if sufficiently buffered by landscaped open space and setbacks. Implementing zoning regulations may set out different standards for different portions of this designation based on the existing development pattern.

The general location of the General Commercial areas shall be in accordance with Schedules “A” and “B” [of the Official Plan].

Any public works or private redevelopment within the area should take into account the Heritage Policies and Downtown Revitalization Policies of this Plan and should implement any applicable portion.

The General Commercial lands may be placed in separate zoning classifications in the implementing Zoning By-law.

The General Commercial designation does not provide for the development of drive-through restaurant development at the proposed location. To this end, the applicant has submitted an application to amend the Official Plan to change the designation of the subject lands from “General Commercial” to a site-specific Special Policy Area within the General Commercial designation.

4.4.3 (2) Gateway to Amherstburg

In order to ensure an aesthetically pleasing approach to the historic portion of Amherstburg and to protect the historic character, and as this area represents the Gateway to Amherstburg and a portion of this area is within the Town’s Downtown Tourist District, additional policies will apply to commercial development established along Sandwich Street between Texas Road and Fort Street and for the area along Sandwich Street South to Lowes Side Road. This policy will allow for, within this area, additional landscaping requirements at the time of site plan approval and special attention will be given to lighting, fencing, and location of garbage disposal. This policy will also allow Council to establish both minimum and maximum height regulations and setback regulations in the Zoning By-law. Council will seek the advice of Amherstburg’s Heritage Committee when dealing with development in this area on such matters as roof line, height, building material, and window placement in order to maintain the historic small town appearance. Site Plans associated with any Zoning By-law amendments to a General Commercial Zone shall be subject to public consultation.

Within this area, Council may establish a setback that requires that at least 25% of the building fronting on to Sandwich Street be set back no less than 6 metres minimum and no more than 15 metres maximum. Council may also establish a minimum elevation at the 6 metre setback from front lot line of 6 metres and a maximum elevation of up to 15 metres. Council may also require an enhanced landscaping plan as part of the site plan approval that requires that deciduous trees be planted in the boulevard having 2.0 metres clear stem and head room for pedestrians and cyclists. In addition Council may require a minimum buffer or landscape strip of 3.0 metres established along Sandwich Street and that 20% of the landscaping be woody plant material that is capable of providing interest in all seasons. Fencing or dense hedge material shall be required to obscure the

parking area if front yard parking is proposed. Chain link fences or wood construction fencing shall not be permitted unless they are fully screened from public view.

The proposed Official Plan Amendment is considered to be consistent with the 2020 PPS, in conformity with the County Official Plan and consistent with the policy direction as set out in the Town's Official Plan.

Section 6.7 – Planning Impact Analysis set out several areas that must be considered as part of an Official Plan Amendment or Zoning By-law amendment. These include:

6.7 PLANNING IMPACT ANALYSIS

It is a policy of the Official Plan that a Planning Impact Analysis will be used to evaluate applications for an Official Plan Amendment and, depending on the magnitude of the development, a Zoning By-law Amendment, to determine the appropriateness of the proposed change and to identify what measures are needed to reduce any adverse impacts on surrounding land uses. The Planning Impact Analysis will supplement the consideration of compliance with the permitted use, location, scale of development, and other criteria applicable to the relevant land use designation. Proposals for changes in the use of land which require the application of a Planning Impact Analysis will be evaluated based on:

- (1) Compatibility of proposed uses with surrounding land uses, and the likely impact of the proposed development on present and future land uses in the area on the character and stability of the surrounding neighbourhood.
- (2) The height, location and spacing of any buildings in the proposed development, and any potential impacts on surrounding land uses.

Administration concurs with the opinion of the planner for the applicant that the proposed development meets the general intent and purpose of the Official Plan and is compatible with the built form in the neighbourhood. Further, the height and location of the building mitigates any potential impact on the neighbourhood. The following comments for the Planning Rationale Report note the following with respect to items 1 and 2 above:

The proposed development is located in the peripheral area adjacent to the downtown core of Amherstburg. The site is located as an infilling development in the mixed use area that is peripheral to the downtown core.

It is observed that through the history of planning applications on the east side of Sandwich Street south of Alma Street and north of Richmond Street that this is an area in transition towards more commercial uses, mixed-use developments and higher than existing residential densities.

Amherstburg is experiencing an increase in demand for commercial uses that serve people by automobile via drive-through and walk-up or bicycle or other accessible access means to the businesses. Furthermore, accessible access for all persons is a legislated requirement.

It is noted by both Administration and the agent for the applicant that the site is deficient by 4 parking spaces under Zoning By-law 1999-52. The Town of Amherstburg Official Plan includes policies that provide for a Payment In-Lieu of Parking option and the agent for the applicant has also noted that a parking study may be prepared. Administration has raised this matter with the agent for the applicant and we agree further discussion / review is required prior to a report coming forward to Council to consider a Zoning By-law amendment for this proposed development.

In the event the applications are approved by Council, the development would also be subject to the execution of a site plan control agreement.

Reports/submissions by Applicant in support of Applications

1. Planning Justification Report – Appendix “A”
2. Functional Services Report – Appendix “B”
3. Transportation Important Assessment – Appendix “C”
4. Amended Planning Justification Report – Appendix “D”
5. Comments from Public Meeting – Appendix “E”
6. Draft Official Plan Amendment No. 16 - Appendix “F”
7. Summary of Correspondence Received – Appendix “G”
8. Map of property owners notified – Appendix “H”
9. List of addresses of property owners notified – Appendix “I”

4. RISK ANALYSIS:

The recommendations present little to no risk to the municipality.

5. FINANCIAL MATTERS:

Costs associated with the application and planning processes are the responsibility of the applicant. Should the decision be appealed to the Ontario Land Tribunal then the Town will incur costs.

6. CONSULTATIONS:

Administration has consulted with the Applicant.

7. CONCLUSION:

The proposed Official Plan Amendment would permit



Christopher Aspila
Manager of Planning Services

CA

NOTIFICATION :				
Name	Address	Email Address	Telephone	FAX
N/A				

Report Approval Details

Document Title:	Official Plan Amendment 16 131-135 Sandwich St S.docx
Attachments:	<ul style="list-style-type: none">- Appendix A - Planning Justification Report.pdf- Appendix B -FSR Final April 8 2022.pdf- Appendix C - TIA 2022-04-22.pdf- Appendix D - Amended Planning Justification Report - 2022 07 29.pdf- Appendix E - Comments from Public Meeting.pdf- Appendix F - DRAFT OPA 16 131-135 Sandwich Street South.pdf- Appendix G - Summary of Correspondence Received.pdf- Appendix H - Map of property owners notified.pdf- Appendix I - PUBLIC- Spreadsheet of Names and Addresses for OPA 16.xlsx
Final Approval Date:	Aug 3, 2022

This report and all of its attachments were approved and signed as outlined below:



Melissa Osborne



Tracy Prince



Valerie Critchley – CAO/Clerk